11/9/07

06-121

FILED/ACCEPTED
NOV 1 6 2007
Federal Communications Commission
Office of the Secretary

Dear FCC Commissioners AT&T

I signed up to speak amongst many other people in Seattle. I am number 243. It is 9 PM and the 51st speaker has just been called so I doubt that I will get the opportunity to speak. Therefore, I leave you this message on this humble sheet since there are no comment cards available - must be due to the haste in which this meeting was arranged.

I attended the last meeting that you had in Seattle in 2003 as well. It's clear from the comments spoken tonight, that have not changed their minds of what we want from the FCC. DO NOT ALLOW ANY REGULATIONS IN PLACE

THAT WE'RE ALLOW FOR BIG MEDIA CONSOLIDATION.

The we didn't want it in 2003 and we don't want it now.

We want to hear more voices from independent sources on the radio, on television and on the internet. We want more information and opinions not less.

You don't get that through media consolidation. It only comes through diversification, access & diversification.

And next time you come to Seattle how about giving us a little more notice?

Thank you,

Mira Latoszek

mira.latoszek@gmail.com

Mira Latoszek
2218 14th Ave S.
Seattle, WA 98144

06-121

Martin Luther King, Jr. County Labor Council, AFL-CIO
2800 First Avenue, Suite 206 • Seattle, Washington 98121
Phone: (206) 441-8510 • Fax: (206) 441-7103 • E-mail: office@mlkclc.org

RESOLUTION TO OPPOSE MEDIA OWNERSHIP CONSOLIDATION
ADOPTED Oct 17, 2007

WHEREAS the Federal Communications Commission (FCC) is charged to regulate the public airwaves and communications systems to serve in the public interest, convenience, and necessity; and

WHEREAS freedom and democracy require diverse and local voices, an informed public, and equal and affordable access to the press, media, and Internet communications; and

WHEREAS our participatory democracy and electoral processes are being threatened and diminished by a handful of giant media corporations who want to swallow up even more local TV Channels, radio stations and newspapers in a single market; and

WHEREAS our unions and the general public suffer from under reporting of labor issues in the news media and misinformation influenced by corporate America; and

WHEREAS the frontline workers most negatively affected include journalists, musicians, writers, artists, actors and telecommunication workers; and

WHEREAS we know that 3 million comments halted unfair FCC rulemaking procedures regarding media ownership consolidation and localism in 2004; and

WHEREAS the final opportunity to offer public comment to the FCC will be at a public hearing slated for November 2007 in Seattle, WA, and/or directly to the FCC by a similar deadline; therefore be it

RESOLVED that the Martin Luther King, Jr. County Labor Council will join the American Federation of Musicians and the Communications Workers of America in opposing the Federal Communication Commission's loosening of the media ownership consolidation rules; and be it finally

RESOLVED that the Martin Luther King Jr. County Labor Council will 1) communicate to the FCC their opposition to the proposed rule making on media ownership consolidation, 2) encourage MLKCLC affiliates and their members to communicate their opposition to the proposed rule making on media ownership consolidation, 3) forward copies to the Washington Congressional Delegation, 4) forward copies to the WSLC and, 5) testify at the last FCC sponsored public hearing slated for Seattle, WA in November 2, 2007.

opeiu8/afl-cio

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Mr. Michael J. Copps, Commissioner
Federal Communications Commission

My name is Victor Jose. I live in Richmond, Indiana, where I published an independent free paper for 40 years, from 1953 to 1993. I bring you no current research; in fact, our industry has always been at a disadvantage in explaining our position to counter the massive and heavily subsidized research of the paid newspaper industry. So I can offer only personal experience and an appeal to common sense, which anyone in our free newspaper business can and will confirm.

As briefly as possible, I hope to touch on some highlights of the cross-ownership ban's history, so we can have a sense of where we've come from to where we are now. This is more fully recorded in my book, *The Free Paper in America – Struggle for Survival*, which is, as far as I know, the only current book on this subject. With due respect, I submit that the evidence in the record raises the question: Why, after all these years, are we still debating the worth of the cross-ownership ban -- one of our country's most enlightened public policies in defending the principles of competition and diversity?

In discussing the cross-ownership ban, we usually start with the year 1975 – a 32 year history. Actually, it has a 73 year history, dating from the enactment of the Communications Act of 1934. It is not generally known that President Roosevelt advocated a cross-ownership ban in that act but had to back off when daily newspaper publishers descended on Washington in protest, because they wanted – and got – radio franchises in their home towns. (See my book, pages 211-12). Later, during the administrations of Nixon, Ford, Carter and Reagan, the issue rose again, with most of those in government and public interest groups always in favor of its continuance.

Fast forward to 1970. By now the power of co-owned newspapers and television stations had become evident, and in that year, 1970, the U.S. Department of Justice recommended a cross-ownership ban and the complete divestiture of all such combinations. However, it wasn't until five years later, with nearly all licenses now granted, including nearly 500 newspaper-radio and newspaper-TV combinations, that the FCC belatedly issued the ban on future co-ownerships. As we know, the paid newspaper industry fought the ruling, which was upheld by the Appeals court, which added the directive of complete divestiture of all such licenses, and then to the Supreme Court, which unanimously approved the Appeals court ruling, although removing complete

divestiture. Answering the newspaper industry's assertion that their First Amendment rights were violated, Justice Marshall declared that "this court has held that application of the antitrust laws to newspapers is not only consistent with but is actually supportive of the values underlying the First Amendment."

In recent years, opposition from the Newspaper Association of America has been undeviating, shifting only from the First Amendment stance to what might be called the "Everything Has Changed" position. It is also essential to keep in mind an important distinction, as pointed out by FCC Chairman William Kennard in 1998 that competition and diversity are separate issues in the total equation, and also in a Commission Order in 1996 that "any waiver that might be acceptable in terms of its impact upon diversity might create such market power in a single entity that it would not be tolerable in terms of competition."

That is also the point at which concerns of independent free papers meet the argument that "Everything Has Changed" and become an issue of survival. Yes, there is more cable TV now, but it is a minor player in the local market, and there is the Internet, which has undermined the daily newspapers' ability to make monopoly profits but not their dominance. We cannot forget – nor should we – that daily newspapers are monopolies in 99% of American cities and remain the overwhelming advertising power. Add to this the fact – as surely we all know – that virtually all daily newspapers now own their own Internet site to continue their unrelenting efforts, as Al Neuharth used to say, "to protect the franchise."

No, as long as daily newspapers dominate all but 1% of our cities, none but those persons who are paid to defend Denial can argue against experience and common sense. Ask any independent free paper or hometown weekly paper who their competition is and they will tell you it is the daily newspaper and the radio and TV stations. In all cases, the independent free paper is the competitor, offering a choice in advertising and often an independent outlet for news and opinions. Even though we can argue endlessly on how dominant the daily newspaper is in any given community, do we want to increase that dominance to the disadvantage of competition? Do we want to narrow the free marketplace of competition and ideas? No, dissolution or weakening of the cross-ownership ban cannot be justified on the basis of either business necessity or public interest.

Victor Jose

06-121

Testimony before Federal Communications Commission,
Nov. 9, 2007, Seattle, Washington

Elizabeth Blanks Hindman
Edward R. Murrow School of Communication
Washington State University

Chairman Martin, thank you for the invitation to speak to you today. Commissioners Tate, McDowell, Copps and Adelstein, I want you to know how much I appreciate the opportunity you have given the people of Washington State and the Northwest to participate in this process that will define American broadcasting for years to come.

I am a board member of Office of Communication, Inc. for the United Church of Christ, and a professor in the Edward R. Murrow School of Communication at Washington State University. Murrow is from Washington State, and we try to live his legacy of independence and ethical behavior. Today I want to talk to you about what I see as broadcasters' legal and ethical obligations, and also your own obligations as Commissioners.

You are stewards of the U.S. broadcast system. A steward is responsible for the property of another, and is charged with caring for it wisely, and for making the best choices for how to use that property in ways that benefit the owner. The broadcast system belongs to the American public. The public is the owner, and you are our steward.

Today all of us are here to discuss ownership rules for broadcasters. Your task is to determine how best to serve the public interest.

I would suggest to you, however, that that task has been done, that choice has been made, for you. Let's look at the history.

In 1934 Congress gave you a charge. As the stewards of the American broadcasting system, you are to, and I quote, "make available... to all the people of the United States, without discrimination ...[a] radio communication service ...." [1] Those words from the Communications Act are clear, direct, and unequivocal. Your responsibility is to all the people, including those who would not be served well by your proposed changes.

In 1943 the U.S. Supreme Court considered an issue not unlike what faces you today. The two major radio networks were chafing at FCC requirements. In that case[2] the Court understood the balance you must strike between the wishes of private enterprise and the needs of the American public, and the Court sided clearly with the public.

In 1966, members of the public in Jackson, Mississippi took issue with the discriminatory news coverage provided by WLBT Television. That battle between a broadcaster and its public came to Judge—later Chief Justice—Warren Burger. Judge Burger concluded that the "representatives of the listening public"[3] have the right to intervene in license renewals. In other words, Judge Burger held that you, as stewards for the American public, must take the public's views into account.

In the 1960s Red Lion Broadcasting Company of Pennsylvania challenged the FCC's interpretation of "public interest." In the ensuing Supreme Court case Justice Byron White—who always expected ethical behavior of the media—summarized the answer to today's question concerning ownership rules. He wrote, "It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market...."[4]

Let me repeat: The FCC may not "countenance monopolization" of the marketplace of ideas. You are the stewards of that marketplace, and your obligations are clear.

And of course not all court cases on the subject are old. Far more recently a court once again articulated your obligations to the American public.[5] In order to change ownership standards, you must have evidence that such changes will benefit the public.

Let me comment briefly on the ownership studies you commissioned following the *Prometheus* case. According to comments filed with you by the Office of Communication, Incorporated, as well as others,

- your own studies "support tightening [not loosening] media ownership limits."
- Your own studies "find that creation of [television] duopolies reduces diversity by allowing large group owners to increase their holdings and forcing minorities and women out of the market."[6]
- Your own studies show that radio-television cross-ownership "has led to less competition and less diversity [and that] .... cross-ownerships devote significantly less time to news programming."[7]

- Your own studies show that "the intense consolidation" in radio ownership since 1996 "has significantly reduced the number of independently owned outlets," the best measure of viewpoint diversity.[8]
- Your own studies cannot provide the percentage of minority and female ownership; others have concluded that those percentages are tiny and disproportionate.
- Your own studies show that the current rules, much less the proposed rules, do not serve the public interest.

Let me share one example from here in Washington State. In May 2006 a lahar warning went out from the Emergency Alert System. A lahar is a mudflow off a volcano; it can have catastrophic effects. Only one 500-watt station played the warning. Because emergency warnings are now voluntary, and expensive, other stations did not use it.[9] Thankfully it proved to be a false alarm. Had it been real, though, several large Washington state communities could have been devastated, with no warning.

Commissioners, your stewardship obligation, as laid out in the Communications Act of 1934, in early and recent court decisions, and in your own internal studies, is to act on the public's behalf. The proposed ownership changes are not in the public interest.

Thank you.

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[1] Communications Act of 1934 § 1, 47 U.S.C. § 151 (1934)
[2] National Broadcasting Co., v. United States, 319 U.S. 190 (1943).
[3] Office of Communication for the United Church of Christ v. Federal Communications Commission, 359 F.2d 994, 997(D.C. Cir. 1966).
[4] Red Lion Broadcasting Co., v. Federal Communications Commission, 395 U.S. 367, 390 (1969).

[5] *Prometheus Radio Project v. Federal Communications Commission, 373 F.3d 372 (3rd Cir, 2004).*
[6] Before the Federal Communications Commission, Comments of Office of Communication of United Church of Christ, Inc., National Organization for Women, Media Alliance, Common Cause, Benton Foundation, iii (Oct. 22, 2007)(on file with author).
[7] *Id.*
[8] *Id.*
[9] Kepner, Rita, "Who Will Warn the People: A Study of One Undelivered Lahar Warning," unpublished paper (2006)(on file with author.)